FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

First Appeal No. 164 of 2007 AND First Appeal No. 168 OF 2007

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

CORAM : Smt. V. A. Naik, J.
DATE : 2nd March, 2007.

Since common questions of facts arise for consideration in these two First Appeals, they are being disposed of by this common order.

Heard Shri Kale and Shri Sonak, learned Assistant Government Pleaders, for the appellants in the two matters.

By these Appeals, the appellant/State has challenged two different judgments/awards passed by the reference Court on 24th April, 2003 awarding enhanced compensation to the respondents/ claimants.

Only 11 R and 12 R of land belonging to the respondents in these two First Appeals was acquired by the State of Maharashtra for the purpose of construction of minor irrigation tank of Wahala. The Section 4 notification was issued on 18th March, 1993. The Land Acquisition Officer granted compensation @ Rs.33,000/- per Hectare. The claimants had claimed compensation @ Rupees One Lac per acre. Hence, being dissatisfied by the meagre compensation granted by the Land

Acquisition Officer, the claimants preferred a reference application before the Collector, Khamgaon who referred the same to the Civil Judge (Senior Division), Khamgaon. By the judgment dated 24th April, 2003, both the reference applications were allowed and the reference Court directed the appellants to grant enhanceed compensation of Rs.3,630/- in case of respondent in case No.164 of 2007 and Rs.5148/- in respect of respondent in First Appeal No. 168 of 2007. The judgments dated 24th April, 2003 are challenged in these two First Appeals.

The reference Court while allowing the claim made by the claimants considered the oral evidence tendered by the claimants on record. The appellant had declined to adduce any evidence. The respondent had deposed that the land was of extremely good quality and the crops of Cotton and Jowar were fetched from the acquired lands. Both the claimants claimed compensation @ Rupees One Lac per acre. The reference Court declined to grant the compensation as claimed by the respondents on the basis of the oral evidence tendered by them. However, the reference Court considered the other awards passed in other Land Acquisition Cases bearing Nos.80 of 1997, 81 of 1997, 84 of 1997 and 93 of 1997 decided on 31st August, 2002 in respect of adjoining lands wherein the reference Court had determined the market value at Rs.50,000/- per Hectare. The reference Court, therefore, thought it fit to

grant compensation to the respondents @ Rs.50,000/- per Hectare. Considering the small extent of land acquired by the State of Maharashtra, the compensation was only enhanced to Rs.3,630/- and Rs.5,148/-.

The approach of the reference Court in determining the market value of the land is extremely just and proper. The Court has in fact raised the compensation only by a trifle amount. The award is passed by the reference Court as early as on 24th April, 2003. It is most likely that the respondents must have withdrawn the meagre amount of compensation which is granted by the reference Court. Even otherwise, as already held hereinabove, the reference Court had considered the earlier awards passed by the reference Court in respect of the adjoining lands as also the evidence tendered by the claimants on record in the form of oral evidence and the 7/12 extracts of lands in question to determine the market value of the land at Rs. 50,000/- per Hectare.

For the aforesaid reasons, I find no reason to interfere with the judgment and award passed by the reference Court on 24th April, 2003.

Consequently, both the First Appeals are dismissed with no order as to costs.

JUDGE

APTE